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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ESTATE OF XANDER MANN, AMY
PICKERING, and JUSTIN MANN,

Plaintiff,

v.

COUNTY OF STANISLAUS,
STANISLAUS COUNTY SHERIFF'S
DEPARTMENT, JEFF DIRKSE,
GERARDO ZAZUETA,
and DOE 1 to 20,

Defendants.

) CASE NO.: 1:21-cv-01098-AWI-SKO
)
) **JOINT STIPULATION TO**
) **CONSOLIDATE CASES; ORDER**
) **CONSOLIDATING CASES**
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) **(Doc. 53)**
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HECTOR del ALTO, by guardian ad
litem ADRIANNA SALGADO,

Plaintiff,

V.

COUNTY OF STANISLAUS, a local government entity; STANISLAUS COUNTY SHERIFF'S DEPARTMENT, a local government entity; GERARDO ZAZUETA, an individual sued in his individual capacity; ESTATE OF XANDER MANN; and DOES 1-10, all individuals in both their individual and official capacities,

Defendants.

TO THE ABOVE-ENTITLED COURT AND TO ALL PARTIES AND THEIR
COUNSEL OF RECORD:

The parties, ESTATE OF XANDER MANN, AMY PICKERING, and JUSTIN MANN, Plaintiffs in the matter of *Estate of Xander Mann, et al.*, v. *County of Stanislaus, et al.* Case No. 1:21-cv-01098-AWI-SKO, and HECTOR del ALTO, by guardian ad litem ADRIANNA SALGADO, Plaintiff in the matter of *Hector del Alto v. County of Stanislaus, et al.*, Case No. 1:22-cv-00384-DAD-SAB; and Defendants including COUNTY OF STANISLAUS, STANISLAUS COUNTY SHERIFF'S DEPARTMENT, JEFF DIRKSE, and GERARDO ZAZUETA, by and through their respective counsel of record, collectively known as the "Parties," have conferred and hereby stipulate to consolidate cases *Estate of Xander Mann, et al.*, v. *County of Stanislaus, et al.* and *Hector del Alto v. County of Stanislaus, et al.*, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure.

JOINT STIPULATION

WHEREAS, presently pending in this Court are two related actions identified below:

1. *Estate of Xander Mann, et al., v. County of Stanislaus, et al.* United States District Court, Eastern District of California, Case No. 1:21-cv-01098-AWI-SKO (“Mann”); and

1 2. *Hector del Alto, by guardian ad litem Adrianna Salgado v. County of Stanislaus, et al.*,
2 United States District Court, Eastern District of California, Case No. 1:22-CV-00384-DAD-SAB
3 (“del Alto”);

4 WHEREAS, both cases arise out of the same officer involved shooting which occurred on
5 May 18, 2021;

6 WHEREAS, on July 19, 2021, Decedent’s mother AMY PICKERING and Decedent’s
7 father JUSTIN MANN filed their Complaint for Damages for Violation of Civil and Constitutional
8 Rights against Defendants COUNTY OF STANISLAUS, STANISLAUS COUNTY SHERIFF’S
9 DEPARTMENT and GERARDO ZAZUETA alleging constitutional claims and torts claims on
10 their own behalf as well as constitutional, state law and survivorship claims on behalf of Xander
11 Mann (“Decedent”) as his mother and father. Plaintiffs also allege they have the right to recover
12 as co-successors in interest to Decedent;

13 WHEREAS, on March 31, 2022, HECTOR del ALTO, by guardian ad litem ADRIANNA
14 SALGADO filed his complaint for damages, alleging constitutional claims and tort claims on his
15 own behalf against the COUNTY OF STANISLAUS, STANISLAUS COUNTY SHERIFF’S
16 DEPARTMENT, GERARDO ZAZUETA and the ESTATE OF XANDER MANN;

17 WHEREAS, Rule 42(a) of the Federal Rules of Civil Procedure permits a court to
18 consolidate actions pending before it if those actions involve a “common question of law or fact.”
19 “The threshold issue is whether the two proceedings involve a common party and common issues
20 of fact or law.” *Seguro de Servicio de Salud v. McAuto Sys. Group*, 878 F.2d 5, 8 (1st Cir. 1989).
21 The single essential requirement is questions of law or fact common to the cases to be consolidated.
22 *Enterprise Bank v. Saettele*, 21 F.3d 233, 235 (8th Cir. 1994).

23 WHEREAS the Parties now seek to consolidate the above related actions pursuant to
24 F.R.C.P. 42 because each action asserts substantially the same claims and raise substantially the
25 same questions of fact and law regarding liability and damages;

26 WHEREAS, the instant actions of *Mann* and *Salgado (del Alto)* have both been properly
27 filed in the United States District Court, Eastern District of California and involve the same facts
28 and circumstances, share many of the same causes of action, would require the same legal analysis,

and as such, satisfy the only requirement for consolidation under Rule 42(a);

WHEREAS, consolidating these two cases would clearly serve the interests of justice: increases judicial efficiency, avoids duplicative evidence, procedures, and inconsistent adjudications, precludes waste, and alleviates potential burdens to the court and to all parties involved.

STIPULATION

IT IS HEREBY STIPULATED, by and between the Parties hereto through their respective attorneys of record:

1. The Eastern District cases *Estate of Xander Mann, et al., v. County of Stanislaus, et al.* Case No. 1:21-cv-01098, and *Salgado (del Alto) v. County of Stanislaus, et al.*, Case No. 1:22-cv-00384 will be consolidated.

IT IS SO STIPULATED.

Dated: July 6, 2022

LAW OFFICE OF MARK E. MERIN

/s/ Mark E. Merin
(as authorized on 7/6/22)

MARK E. MERIN
PAUL H. MASUHARA
Attorneys for Plaintiffs
ESTATE OF XANDER MANN,
AMY PICKERING, and JUSTIN MANN

Dated: July 8, 2022

RIVERA HEWITT PAUL LLP

/s/ Jill B. Nathan
SHANAN L. HEWITT
JILL B. NATHAN
Attorneys for Defendants
COUNTY OF STANISLAUS,
STANISLAUS COUNTY SHERIFF'S
DEPARTMENT, and JEFF DIRKSE

1 Dated: June 29, 2022

LAW OFFICE OF DONALD W. COOK

2 */s/ Donald W. Cook*

3 (original signature retained by attorney)

4 _____
DONALD W. COOK

5 Attorney for Plaintiff

6 HECTOR del ALTO, by guardian ad litem
ADRIANNA SALGADO

7
8 Dated: July 7, 2022

PORTER SCOTT

A PROFESSIONAL CORPORATION

9
10 */s/ John R. Whitefleet*

11 (as authorized on 7/7/22)

12 _____
JOHN R. WHITEFLEET

13 Attorneys for Defendant

14 GERARDO ZAZUETA
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ORDER

In view of the foregoing stipulation of the parties (Doc. 53), and pursuant to Fed. R. Civ. P. 42(a), it is HEREBY ORDERED that:

1. The Clerk of Court shall consolidate *Estate of Xander Mann, et al.*, v. *County of Stanislaus, et al.* Case No. 1:21-cv-01098-AWI-SKO with *Salgado (del Alto) v. County of Stanislaus, et al.*, Case No. 1:22-cv-00384-DAD-SAB for all purposes;

2. All future filings and correspondence shall use Case No. 1:21-cv-01098-AWI-SKO;

3. The Clerk shall move Doc. Nos. 1, 2, 3, 4, 5, and 7–11 from the docket of 1:22-cv-00384-DAD-SAB to the docket of 1:21-cv-01098-AWI-SKO;

4. The Clerk shall administratively close *Salgado (del Alto) v. County of Stanislaus, et al.*, Case No. 1:22-cv-00384-DAD-SAB¹; and

5. The Clerk shall file a copy of this order in Case No. 1:22-cv-00384-DAD-SAB.

IT IS SO ORDERED.

Dated: July 13, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

¹ The Court notes that administratively closing this case has no impact whatsoever on the merits.